IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

C.W.P. No. 18272 of 2006

Date of Decision: November 20, 2006

Om Parkash

…..Petitioner

Vs.

State of Haryana and others

…..Respondents

CORAM: HON'BLE MR. JUSTICE M.M. KUMAR.

HON'BLE MR. JUSTICE M.M.S. BEDI.

Present:- Mr.Manoj Chahal, Advocate
for the petitioner.

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M.M. KUMAR, J. (ORAL)

The prayer made by the petitioner in the instant writ petition is that order dated July 3, 2006 (P-5) be quashed and the respondents be directed to ante date the date of his promotion as Accountant by giving him deemed date of promotion as April 12, 1990, when allegedly person junior to him was promoted with all consequential benefits. It remains undisputed that the petitioner was facing charge-sheet on April 12, 1990, when alleged junior person Sh. Devi Lal, who belongs to B.C. category, was promoted.

Subsequently, on representation made by the petitioner, he was given promotion w.e.f. July 29, 1998. The petitioner kept on making representations which ultimately culminated in sending of a legal notice on May 3, 2006, as is evident from the perusal of the impugned order dated July 3, 2006 (P-5). The claim of the petitioner for granting him a deemed date of promotion of 1990 or 1993 was rejected on July 3, 2006 (P-5).

Having heard the learned counsel for the petitioner, we are of the considered view that the instant petition suffers from delay and laches because the cause of action, if any, arose to the petitioner in the year 1990 or subsequently when the punishment of stoppage of increment was imposed on him on July 14, 1993. The petitioner preferred to keep quite without moving the Court of law. It is also pertinent to mention that on May 3, 2006, he served legal notice under Section 80 CPC which is required under the law before approaching the Civil Court for filing of a civil suit. Realising the difficulty to wriggle out of the delay of more than three years, the petitioner did not file the civil suit. Any delay in fling of a civil suit cannot be condoned because Section 5 of Limitation Act, 1963, does apply to suits and rights of parties acquire the character of what are know in jurisprudence as 'Imperfect Rights' which are incapable of being enforced by availing any legal remedy. Therefore, instead he has approached this Court by filing the present petition in the hope that the writ petition could be filed even after the expiry of the period of limitation. However, the false hope on the basis of which the instant petition has been filed is completely belied because Hon'ble the Supreme Court has laid down as far back as in

1964 in the case of **State of M.P. v. Bhai Lal Bhai**, AIR 1964 SC 1006, that the period of limitation prescribed for filing of a suit could easily be imported into filing of a writ petition. The argument raised that repeated representations have been filed by the petitioner, would also not cut any ice in the face of the Constitution Bench judgment of the Hon'ble Supreme Court in the case of **S.S. Rathore v. State of M.P.**, AIR 1990 SC 10. There is thus, no merit in the petition. The same is accordingly dismissed.

(M.M.KUMAR)
JUDGE

November 20, 2006
sanjay

(M.M.S.BEDI)
JUDGE